

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, :

v. :

TODAY’S GROWTH CONSULTANT, INC.
(dba THE INCOME STORE) :

and :

KENNETH D. COURTRIGHT, III, :

Defendants. :

Civil Action No. 1:19-cv-08454
(filed in the United States District
Court, Northern District of Illinois)

MELANIE E. DAMIAN, AS RECEIVER OF
TODAY’S GROWTH CONSULTANT, INC.
(dba THE INCOME STORE),

Plaintiff,

v.

ASHER MILGROM, DANIEL GIORDANO,
DANIEL MEYER, and JDS CONSULTING
GROUP LLC,

Defendant.

Ancillary Case No. 20-cv-06546

ORDER GRANTING PLAINTIFF’S MOTION FOR SUBSTITUTE SERVICE

AND NOW, this _____ day of _____, 2021, upon consideration of Plaintiff Melanie E. Damian’s, as Receiver of Today’s Growth Consultant, Inc. (dba the Income Store) (the “Receiver”) Motion for Substitute Service (the “Motion”), and finding that cause exists to grant the Motion, it is hereby ORDERED as follows:

1. The Motion is GRANTED; and .

2. The Receiver may serve Defendant JDS Consulting Group LLC through a combination of (a) publication of the Summons and Complaint as a class 3 notice under Wis. Stat. § 985.07; and (b) sending the Summons and Complaint by U.S. Mail to Defendant's registered agent's address at 1215 Vilas Avenue, Madison, WI 53715

JOHN M. GALLAGHER, U.S.D.J

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(dba THE INCOME STORE), :

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ASHER MILGROM, DANIEL GIORDANO, :
DANIEL MEYER, and JDS CONSULTING :
GROUP LLC, :

Defendant. :

Ancillary Case No. 20-cv-06546

PLAINTIFF’S MOTION FOR SUBSTITUTE SERVICE

Melanie E. Damian, the court-appointed receiver (“Plaintiff” or the “Receiver”) in the above-captioned enforcement action (the “SEC Action”) moves for approval of a substitute method of service pursuant to Wis. Stat. § 801.11(5)(b) for purposes of serving the Summons and Complaint against Defendant JDS Consulting Group, and states as follows:

1. In December 2020, the Receiver brought suit against defendant JDS Consulting Group LLC (“Defendant”) to accomplish the ends sought and directed by the District Court in the SEC Action, which, among other things, appointed Plaintiff as Receiver and authorized her to commence actions to recover assets of, and for the benefit of, the Receivership Estate. Defendant received transfers totaling \$120,250.00 over a period of two years from TGC, which transfers were the proceeds of a fraudulent scheme perpetrated by TGC and its principal Kenneth D. Courtright, III. Furthermore, JDS Consulting received substantial amounts of funds from TGC purportedly in exchange for consulting services that did not provide value to TGC.

2. The Complaint and Summons listed the last known address of the Defendant at 902 Drake Street, Apt. 502, Madison, WI 53715-1608, which is the last known address that appears on searches of Defendant conducted through the Lexis Accurint research tool and the Wisconsin Department of Financial Institutions website.

3. Accordingly, and after review of those search results, the Plaintiff retained DLE Legal to attempt service of the Complaint and Summons on Defendant at that address.

4. After several efforts to serve Defendant at that address, Plaintiff and DLE Legal determined that Defendant had moved to 1215 Vilas Avenue, Madison, WI 53715.

5. Indeed, the process server learned after speaking with the neighbor in the driveway that Defendant resided at the Vilas Avenue address. Further, the last name of the registered agent for Defendant is printed on the mailbox outside the address.

6. The process server has made seven attempts on various days, and at significant expense to Plaintiff, to serve Defendant’s registered agent at the Vilas Avenue address but has been unsuccessful. As set forth in the attached affidavits, Defendant’s registered agent appears to

be at that address but evading service by refusing to answer the door. *See* Affidavit of Due Diligence, attached as **Exhibit A**.

7. As explained above and supported by the attached affidavit, a diligent inquiry as to the location of Defendant and its registered agent has been made, and reasonable efforts to serve have been unsuccessful. Plaintiff has exercised diligence in the effort to serve Defendant.

8. Having exercised significant diligence over the last three months to have Defendant served, and in light of the pandemic which has resulted in many individuals, perhaps including Defendant, isolating at home and not answering the door, it is proper and appropriate to have substitute service, here both by publication of the Summons and Complaint as a class 3 notice under Wis. Stat. § 985.07¹ and by U.S. Mail. This would be consistent with the language and policy of Wis. Stat. § 801.11(5)(b), which provides “[i]f with reasonable diligence the defendant cannot be served under par. (a), then the summons may be served upon an officer, director or managing agent of the corporation or limited liability company by publication and mailing.”

9. Accordingly, Plaintiff requests that she be allowed to serve Defendant by a combination of: (1) publication of the Summons and Complaint as a class 3 notice under Wis. Stat. § 985.07; and (2) sending the Summons and Complaint by U.S. Mail to Defendants’ registered agent’s Vilas Avenue address.

¹ “All notices designated as class 3 notices require 3 assertions.” Wis. Stat. § 985.07(3)(a).

WHEREFORE, Plaintiff Melanie E. Damian, as the Court-appointed Receiver of TGC, respectfully requests on Order granting the following relief:

- a) That substitute service be permitted, with a Summons and Complaint served by publication and mailing as proposed above;
- b) That the Court grant all other relief that it deems appropriate.

SEMANOFF ORMSBY
GREENBERG & TORCHA, LLC

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*Co-Counsel for Plaintiff Melanie E. Damian,
as Court-Appointed Receiver
and*

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*Co-Counsel for Plaintiff Melanie E. Damian,
as Court-Appointed Receiver (Admitted Pro Hac
Vice)*

Dated: March 26, 2021

EXHIBIT A

AFFIDAVIT OF DUE DILIGENCE

United States District Court

County of

State of

Case Number: 20-6546

Plaintiff:

Melanie E. Damian as Receiver of Today's Growth Consultant, Inc. doing business as The Income Store

vs.

Defendant:

Asher Milgrom, et alReceived by DLE Process Servers Inc. to be served on **JDS Consulting Group, 1215 Vilas Ave., Madison, WI 53715.**I, Marcy Phillips, being duly sworn, depose and say that on the **10th day of March, 2021 at 1:25 pm, I:****NON-SERVED:** After due search, careful inquiry and diligent attempts I was unable to serve the **Summons in a Civil Action, Complaint, Exhibits** for the reason that I failed to find subject because of the following:**Additional Information pertaining to this Service:**

1/8/21 12:50PM Attempted service at 902 Drake St. Apt. 502, Madison, WI and woman on intercom stated that "JDS Consulting Group" is completely unknown to her and she and her boyfriend do not have the initials "JS" or "JDS". Landlord for the building at this address is at 608-819-6500.

1/14/21 12:45PM Attempted service at 316 W. Washington Ave., Madison, WI and encountered a multi-unit apartment and business suites building and no directory. Google indicates "JDS Consulting Group, 3814 Mineral Point Rd., Madison, WI 53705, 608-467-8818. Called said number and voicemail not set up. Unofficial database indicates 608-467-8818 may reverse to Joseph Sweeney, DOB 2/27/81 with a possible current address of 1215 Vilas Ave., Madison, WI 53715 and a previous address of 902 Drake St. Apt. 502, Madison, WI. and a possible current phone number of 608-609-6716. Called 608-609-6716 and got "Joseph" on voicemail and left a voicemail and left a voicemail message. "Joseph" called back and stated that he has nothing to do with "JDS Consulting Group" and he is the wrong person. Unofficial database indicates Joseph Sweeney, DOB 2/27/1981 is also known as Joseph D. Sweeney.

1/30/2021 2:00 pm Attempted service at 1215 Vilas Ave., Madison, WI 53715, woman in the duplex driveway was unloading her vehicle for next door. Subject asked for subject and she said he lives next door. No answer at door. Blinds turned downward.

2/6/2021 1:49 pm Attempted service at 1215 Vilas Ave., Madison, WI 53715, woman answered the door, server asked for subject and said woman wanted to know what it was about. Woman said subject moved. Server asked when subject moved and she said she doesn't not know exactly. She said she could not help server and shut the door. Vehicle tagged in duplex driveway are 117-XF2 and AAY-1402.

2/27/2021 2:55 pm Attempted service at 1215 Vilas Ave., Madison, WI 53715. No answer at door. Blinds turned open. Package for Kristen Radtke by front door.

2/28/2021 7:02 pm Attempted service at 1215 Vilas Ave., Madison, WI 53715, no answer at the door. No interior lights on and there is a red Hyundai with WI plate AEX1583 parked in the driveway. The mailbox has "Sweeney/Radtke" printed on it. Spoke with a neighbor who confirmed that Joseph lives here but is at work. There is a UPS package for Kristen Radtke on the porch.

3/3/2021 2:14 pm Attempted service at 1215 Vilas Ave., Madison, WI 53715, no answer at bell, blinds turned open. Vehicles tagged, AEX-1583 and AAY-1402 in duplex driveway.

3/4/2021 2:15 pm Attempted service at 1215 Vilas Ave., Madison, WI 53715, no answer at door, blinds closed, same vehicles in duplex driveway as previous attempt.

3/6/2021 3:44 pm Attempted service at 1215 Vilas Ave., Madison, WI 53715, no answer at door, blinds closed, vehicle(s) on duplex driveway tagged AEX-1583 and AAY-1402.

3/10/2021 1:25 pm Attempted service at 1215 Vilas Ave., Madison, WI 53715, no answer at door, blinds closed. Same vehicles as previous attempt.

I certify that I am an adult over the age of 18, I am a resident of the State of Wisconsin, and I have no interest in the above action. I also certify that at the time of said service, I endorsed upon the copy so served, the date upon which the same was served, the time, place, manner of service and upon whom service was made and signed my name thereto.



Subscribed and Sworn to before me on the 11th day of March, 2021 by the affiant who is personally known to me.

NOTARY PUBLIC
STATE OF WISCONSIN
MY COMMISSION EXPIRES 03/26/21

marcy phillips
Marcy Phillips
Process Server

DLE Process Servers Inc.
1750 Coral Way.
Suite 300
Miami, FL 33145
(786) 220-9705

Our Job Serial Number: GWK-2021000674
Ref: 357